IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA

WESTERN DIVISION No. 5:16-CR-7-1BO No. 5:18-CV-104-BO

MARC ALAN KEARNEY, Petitioner,)	
v.)	<u>ORDER</u>
UNITED STATES OF AMERICA, Respondent.)))	

This cause comes before the Court on petitioner's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 and the government's motion to dismiss. In its motion to dismiss, the government accedes to petitioner's request for a hearing on his claim that his trial counsel was ineffective for failing to file a requested notice of appeal.

Petitioner's request for an evidentiary hearing on his second claim for relief is.

ALLOWED. Petitioner was previously found to be indigent by an order of the Court entered

January 21, 2016. Rule 8(c) of the Rules Governing § 2255 Proceedings requires that the Court

appoint counsel to represent petitioner at an evidentiary hearing. *See also United States v. Harris*, 217 F.3d 841 (4th Cir. 2000) (unpublished table decision).

Accordingly, petitioner is hereby APPOINTED attorney Raymond Tarlton to represent him at the evidentiary hearing. 18 U.S.C. §3006A. The clerk is DIRECTED to serve a copy of this order on petitioner, the government, and Raymond Tarlton. An evidentiary hearing in this matter is hereby set for this Court's August term.

SO ORDERED, this ____ day of June, 2018.

TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE